IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.L.P..No. 564 of 2007()

CC.3194/2003 of JUDICIAL FIRST CLASS MAGISTRATE COURT, MUVATUPUZHA

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PETITIONER/COMPLAINANT:

M/S.AUTO LEASE & HIRE PURCHASE,
MUVATTUPUZHA, REPRESENTED BY DILEEP P.SREENIVAS,
POWER OF ATTORNEY HOLDER.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: STATE AND ACCUSED

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1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. CHELLAPPAN.P.G., PANIPPARA HOUSE, ANACHAL, CHITHIRAPURAM P.O., IDUKKI.

BY ADV. SRI.P.CHANDY JOSEPH-R2
PUBLIC PROSECUTOR SRI. THOMAS JOHN AMBOOKKAN - R1

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 564 OF 2007

Dated this the 21st day of August, 2007

O R D E R

This is a petition for special leave to appeal against the judgment in C.C. No.3194 of 2003 on the file of the Judicial First Class Magistrate's Court, Muvattupuzha.

2. The case of the complainant- firm before the court below was that the accused - second respondent herein issued Ext.P6 cheque in favour of the complainant in discharge of a liability on the basis of a hire purchase agreement and that when the said cheque was presented to the bank for encashment, the same was dishonoured due to insufficiency of funds in the account of the accused. It was the further case of the complainant that though notice was issued to the accused demanding payment of the amount covered by the cheque, the amount was not returned and hence he filed the complaint. To prove the case against the accused, PW.1 was examined and Exts.P1 to P9 were produced. No oral or documentary evidence was adduced on the side of the defence. On closing the evidence of the

complainant, the accused was questioned under Section 313 Cr.P.C. Denying the transaction which led to the issuance of the cheque, the accused stated that he was not liable to pay any amount as stated in the complaint. The trial court, after considering the evidence, found that the complaint itself was not filed by the competent or authorised person. The trial court further found that the person who is competent to file the complaint can be seen only from the partnership deed which has not been produced. The trial court also found that the original of the hire purchase agreement and the register showing the loan given by the complainant were also not produced . On these grounds, the court below found the accused not guilty and acquitted him.

3. After considering the entire evidence, this Court is of the view that the infirmities found by the court below are on evidence and hence, the impugned judgment requires no interference.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

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